IN THE

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1976

No. 76-117

Supreme Court, U. S.
FILED
AUG 3 1976
MICHAEL RODAK, JR., CLERK

EDWARD MITCHELL, HOWARD N. SHEPHARD, CALVIN T. REDDEN, JAMES T. OAKES,

*Plaintiffs*

VS.

BENJAMIN E. CARMICHAEL, Commissioner of Education of the State of Tennessee; MILTON P. RICE, Acting Attorney General and Reporter for the State of Tennessee; THE LINCOLN COUNTY QUARTERLY COURT, composed of LYLE M. FRANKLIN, W.F. PHILPOT, JOE D. TAFT, FRANK E. GRAHAM, HOWARD CAPSHAW, HOWARD MONKS, V.H. BARNES, BILLY PARKER, PAUL BARHAM, CECIL ELLIS, PANGLE STEWART, WM. R. CARTER, FRED YOUNG, J.T. WYATT, WM. S. JAKOVINA, HERMAN MONTGOMERY, L.C. CURTIS, JOHNNY STEVENSON, H. PARSONS, JR., FREEMAN TOWRY, DR, T.H. BULLINGTON, KNOX STEWART, CECIL COOKE, CLYDE FORRESTER, ROY SWEENEY, CON. S. MASSEY, E.C. COLLINS, THOS. E. HUDSON, MELVIN HOWELL, J.T. WALKER, LEONARD MANSFIELD and EARL VANN; TAYLOR CRAWFORD, County Judge and fiscal agent of Lincoln County, Tennessee; the Board of Education of Lincoln County, Tennessee, composed of ERNEST PENDERGRASS, BRIMAGE L. SMITH, WM. T. MEDLEY, JAS. W. SMITH, R. E. BURROUGHS, C.H. HARDY, TULLY BUCHANON, WM. D. JONES and JOHN T. TOWRY; RICHARD WAGGONER, Administrator of the Lincoln County School System, the Board of Education of the State of Tennessee composed of NOBEL C. CAUDILL, T.M. DIVINE, JOHN K. FOLGER, THOMAS E. GERAGHTY H. LYNN GREER, JR., JAMES W. HAWKINS, EDWARD L. JENNINGS, HUGH T. MCDADE ANDREW J. PAYNE, JR., MRS. C. LENTZ STEVENS, F. THORNTON STRANG, MS. DORIS B. TANNER, BENJAMIN E. CARMICHAEL, STEPHEN DENNIS, GEORGE H. BARNES, KENNETH EZELL, DALE GLOVER, JAMES H. JONES, JR., EDWIN H. KENNEDY, FRANK TAYLOR and GOVERNOR WINFIELD DUNN.

**Consolidated with**

Edward Mitchell, Howard Shephard, Calvin T. Redden, James T. Oakes

VS

(**Same Defendants** except County Judge Taylor Crawford is named as primary defendant instead of Benjamin E. Carmichael Commissioner of Education)

**[redacted] CORRECT ERRORS IN PETITION**

by submitting

**APPENDIX A - SUPPLEMENT**

and a complete

**CORRECTED INDEX**

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IN THE

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1976

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MITCHEL, et al

*Petitioner*

VS.

CRAWFORD, et al

*Respondents*

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**ON PETITION FOR THE WRIT OF CERTIORARI TO THE SUPREME COURT OF TENNESSEE**

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The petitioner moves the court for leave to correct certain errors in petition advertently occurring in the final preparation of copy for printing in the following respects:

1. By listing cases in alphabetical order instead of order of citation.

2. By entering certain statutes in the Index to Petition inadvertently omitted.

3. By entering a separate index to Petition for Writ of Certiorari, and to Appendix A & A - Supplement as to all statutes and all constitutional provisions including those not included in the original Appendix A and here added in Appendix A - Supplement.

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## CONSTITUTION OF TENNESSEE

**Article II, Sec. 3. Legislative authority—Term of office.**—The Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both dependent on the people; who shall hold their offices for two years from the day of the general election.

**Article II, Sec. 17. Origin and frame of bills.**—No bill shall become a law which embraces more than one subject, that subject to be expressed in the title. All acts which repeal, revive or amend former laws, shall recite in their caption, or otherwise, the title or substance of the law repealed, revived or amended.

**Article II, Sec. 29. Counties and towns—Power to tax—Credit.**—But the credit of no County, City or Town shall be given or loaned to or in aid of *any person,* company,



association or corporation, except upon an election to be first held by the qualified voters of such county, city or town, and the assent of three-fourths of the votes cast at said election.

**Article XI, Sec. 17. County offices.**—No County office created by the Legislature shall be filled otherwise than by the people or the County Court.

**Compiler's Notes.** The provision in this section originated with this Constitution, and was not in the previous Constitutions. See Prescott v. Duncan (1912), 126 Tenn. 106, 148 S. W. 229.

The provision in this section was doubtless incorporated into the Constitution of 1870 on account of the condition of the government existing at the time of the meeting of the constitutional convention, and just prior thereto, and to insure against the repetition of such condition, which was caused by the affliction of an orgie of commissioners appointed from Nashville, many of them hostile in sentiment and conduct to the people over whom they were set, and most of them appointed because of such hostility. See Prescott v. Duncan (1912), 126 Tenn. 106, 148 S. W. 229.

## TENN CODE ANNOTATED

**1-303. Conflicts within Code.**—If provisions of different titles or chapters of the Code appear to contravene each other, the provisions of each title or chapter shall prevail as to all matters and questions growing out of the subject matter of that title or chapter. [Code 1932, § 13; modified.]

**4-404. Central offices—Branches.**—Each department shall maintain a central office at the capitol, which shall be the official residence of each commissioner, or head of department. The commissioner of each department may in his discretion and with the approval of the governor, establish and maintain at places other than the seat of government, branch offices for any one or more functions of his department.

**16-625. Counterpart summons.**—Counterpart summons, accompanied by copies of the bill, may be issued to any other counties of the state for defendants not to be found in the county in which the suit is properly brought.

**49-2709. Provision for comprehensive vocational and technical education in grades 9 through 12.**—It is further declared to be the intent of the general assembly of the state of Tennessee that comprehensive vocational and technical education be made available by the state and local education agencies in grades nine (9) through twelve (12).

(a) Comprehensive High Schools. Facilities will be utilized and/or expanded in school systems where schools have been consolidated sufficiently to provide comprehensive high schools for a minimum of about fifteen hundred (1500) students.

(b) Area Vocational-Technical Schools. Facilities will be utilized and/or expanded in area vocational-technical schools, where properly located, to provide comprehensive high school vocational training.

(c) Vocational Training Centers. In counties, including city and special school districts, with two or more high schools, where students cannot be served under the provisions of item (a) or item (b) of this section, a vocational training center will be established separate from any existing school.